

# **Testimony of State Representative Steve Wieckert**

## **Assembly Bill 570 – Anatomical Gifts Act** *Assembly Committee on Health and Healthcare Reform*

*Room 417 North – November 20, 2007*

Good morning Chairwoman Leah Vukmir and committee members. I am pleased to come before you today to discuss Assembly Bill 570, the Anatomical Gifts Act.

Organ Donation has been critical in saving lives. Over 95,000 people are on the waiting list nationwide to receive a lifesaving organ transplant. Each year thousands of individuals pass away as they continue to wait for their transplant.

AB 570 before you today, updates and modernizes organ donation in Wisconsin. This legislation focuses on methods and procedures and attempts to make them more uniform with other states from across the country. The Uniform Anatomical Gift Act (UAGA) was originally implemented in 1968 and was amended about twenty years later in 1987. This legislation is designed to once again update the uniform act to reflect changes across the country.

Several of the major update categories include:

1. Making an anatomical gift during a persons lifetime
2. The effect of an anatomical gift during a person's lifetime
3. Anatomical gift on behalf of a deceased
4. Method of making an anatomical gift
5. Procurement procedures
6. Interaction between anatomical gifts and healthcare power of attorney
7. Recipient use of donated organs
8. Immunity and liability
9. Penalty for falsifying a record
10. Validity of anatomical gifts
11. Donor registry

This legislation, in similar form, has already been adopted in 18 states, and introduced in 13 others. For example, Iowa and Minnesota have already enacted legislation to update the UAGA.

Wisconsin is a leader in promoting organ donation. In 2004, I authored legislation commonly referred to as "Cody's Law," offering a tax deduction for the expenses of organ donation. Since then, 12 other states have enacted

Wisconsin's "Cody's Law." Wisconsin has also initiated other very important efforts to encourage and promote organ donation.

Senator Risser and I, as well as our staffs, many affected healthcare groups, and the Department of Transportation, have been working to custom fit this model legislation for the State of Wisconsin over the last six months. I believe it is now ready with a few technical amendments considered for your approval.

The Hospitals Association and possibly other healthcare groups may wish to provide additional clarifying technical amendments before our executive session, which would be acceptable.

This legislation has also been approved by:

- National Conference of Commissioners on Uniform State Laws
- American Association of Tissue Banks
- United Network for Organ Sharing (UNOS)
- UW-Hospitals

Senator Fred Risser is also offering identical legislation in the State Senate.

Thank you. At this time I would be happy to answer any questions the committee may have.



## *American Association of Tissue Banks*

September 12, 2007

The Honorable Steve Wieckert  
State Representative  
Wisconsin General Assembly  
Room 16 West, State Capitol  
P. O. Box 8953  
Madison, WI 53708-8953

Dear Representative Wieckert:

The American Association of Tissue Banks (AATB) is pleased to add our endorsement to proposed 2006 revision of the Uniform Anatomical Gift Act (UAGA), and we respectfully request that the Wisconsin State Legislature enact this important legislation.

Every year, the AATB's more than 1,100 individual members and 97 accredited tissue banks recover tissue from more than 30,000 donors and distribute in excess of 1.5 million allografts for transplant. More than a million Americans annually depend on these transplants to relieve their pain, regain their mobility, restore their limbs, and save their lives. In a very real sense therefore, this legislation will save and improve the lives of millions of Americans, thousands of whom reside in the State of Wisconsin.

For almost two decades, the UAGA has provided the legal framework and the fundamental law for anatomical donation. Over those years, however, donation practices and federal regulation have changed significantly. To make the UAGA consistent with modern-day practices and to cure discrepancies and lack of uniformity between the states, the UAGA needs to be revised.

You have the support of the AATB for passage of this act and our commitment to work with you for its enactment.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Robert Rigney, Jr.', is written over a horizontal line.

P. Robert Rigney, Jr., Esq.  
Chief Executive Officer

PRRJr/br





Since 1984 — sharing organs, sharing data, sharing life.

700 North 4th Street, Richmond, VA 23219  
P.O. Box 2484, Richmond, VA 23218  
tel: 804-782-4800  
fax: 804-782-4816  
[www.unos.org](http://www.unos.org)

Walter Graham, Executive Director

September 7, 2007

The Honorable Steven Wieckert  
State Capitol Office: Room 16 West  
P.O. Box 8953  
Madison, WI 53708-8953

**Re: Endorsement of the Revised Uniform Anatomical Gift Act of 2006**

Dear Representative Wieckert:

At its March 22-23, 2006, meeting, the Board of Directors of United Network for Organ Sharing (UNOS), serving as the Board of Directors of the national Organ Procurement and Transplantation Network (OPTN), unanimously endorsed the proposed Uniform Anatomical Gift Act (2006), which was approved later that year by the National Conference of Commissioners on Uniform State Laws. The 2006 UAGA includes significant improvements over prior versions and now better reflects the roles of the participants in the nationwide organ recovery and transplantation system as defined by federal regulations.

The UAGA was originally drafted in 1968 and was significantly amended in 1987, although not all states have adopted the uniform act. The anatomical gift law of the states is no longer uniform, and diversity of law is an impediment to transplantation. We firmly believe that consistency in the law in every state will help save and improve the lives of the many citizens waiting for a donor organ. Presently, there are more than 95,000 candidates on the Patient Waiting List, and we applaud your efforts to promote legislation that will increase the availability of these life saving organs.

The revised UAGA has already been adopted in 18 states and introduced in 13 others. We sincerely hope that Wisconsin also adopts these significant improvements over prior versions of the UAGA. Please feel free to contact me if we can be of any further assistance.

Sincerely yours,

Walter K. Graham  
OPTN/UNOS Executive Director

**President**  
Timothy L. Pruett, M.D.

**Vice President**  
Robert S. D. Higgins, M.D., M.S.H.A.

**Vice President**  
*Patient & Donor Affairs*  
Margaret J. Schaeffer, RN

**Secretary**  
Lynt B. Johnson, M.D., M.B.A.

**Treasurer**  
Lloyd H. Jordan, Jr., CPA

**Immediate Past President**  
Sue V. McDiarmid, M.D.

**Regional Councilors**  
Craig W. Lillehei, M.D. (1)  
Cosme Y. Manzanbelita, M.D., FACS (2)  
Alan I. Reed, M.D. (3)  
Glenn A. Halli, M.D., FACS (4)  
David C. Mulligan, M.D., FACS (5)  
Monica Johnson-Tomanka, RN (6)  
Edward R. Garrity, Jr., M.D., M.B.A. (7)  
Robin J. Linderer, RN, BSN (8)  
Jean C. Emond, M.D. (9)  
Jeffrey D. Punch, M.D. (10)  
Santiago R. Vera, M.D., FACS (11)

**At Large Board Members**  
Charles E. Alexander, RN, MSN, MBA, CPTC  
Jerry Butler  
Mary A. Carpenter  
Dolph Chianchino, J.D.  
A. Benedict Cosini, M.D.  
Gabriel M. Danovitch, M.B., LRCP, MRCS  
Thomas A. Falsley, B.S.  
Richard B. Freeman, M.D.  
Michael E. Hagan, D.O., M.H.S.A.  
William E. Harmon, M.D.  
Robert S. D. Higgins, M.D., M.S.H.A.  
Ruth A. McDonald, M.D.  
M. Jill McMaster, M.A., C&PT

Thomas Mone, M.S.  
Karen Nelson, Ph.D., D(ABHI)  
Paul B. Oldam, B.S.S.  
Marian O'Rourke, RN, CCTC  
Carol A. Pancoska, Ph.D. (ABHI)  
Margaret J. Schaeffer, RN  
Tracy C. Schmidt, M.H.A.  
Janet M. Shaftel, RN, BSN  
Amy Shorin-Silverstein, J.D.  
Flora Solarz, M.P.S., ATR  
Deborah Surias, AEE  
Betsy J. Walsh, J.D., MPH  
Winfred W. Williams, Jr., M.D.

**Past Presidents**  
G. Melville Williams, M.D., 1984-85  
Oscar Salvatierra, Jr., M.D., 1985-86  
John C. McDonald, M.D., 1986-88  
H. Keith Johnson, M.D., 1988-89  
Robert J. Corry, M.D., 1989-90  
James S. Wolf, M.D., 1990-91  
Robert Mendez, M.D., 1991-92  
R. Randal Bollinger, M.D., Ph.D., 1992-93  
Douglas J. Norman, M.D., 1993-94  
Margaret D. Allen, M.D., 1994-95  
Bruce A. Lucas, M.D., 1995-96  
James E. Burdick, M.D., 1996-97  
Lawrence G. Hunsicker, M.D., 1997-98

William W. Pfaff, M.D., 1998-99  
William D. Payne, M.D., 1999-2000  
Patricia L. Adams, M.D., 2000-2001  
Jeremiah G. Turcotte, M.D., 2001-2002  
Clyde F. Barker, M.D., 2002-2003  
Russell H. Wiesner, M.D., 2003-2004  
Robert A. Metzger, M.D., 2004-2005  
Francis L. Delmonico, M.D., 2005-2006

**Executive Director Emeritus**  
Gene A. Pierce

## LEADERSHIP BOARD

Nancy K. Korom, R.N., M.S.N.  
*Chairman*

Steven T. Mielke  
*Vice Chairman*

Todd A. Mahr, M.D.  
*Secretary*

David G. Murphy  
*Past Chairman*

Robert J. Berdan  
Lori A. Craig  
Stephen Dolan, M.D.  
James W. Ehrenstrom  
John F. Emanuel  
Marilyn D. Frenn, Ph.D., R.N.  
Michael J. Jaeger, M.D.  
Caroline V. Krider  
Thomas P. Luljak  
Michael J. Redding  
Rodney D. Reider  
Penny J. Siewert  
Ricardo J. Soto, Ph.D.  
Debra K. Standridge

## EXECUTIVE DIRECTOR

Susan Gloede Swan

## SENIOR COUNCIL

John P. Gwin  
Charles E. Reeves  
John E. Stevenson, M.D.  
David L. Vollmar  
James M. Wilkie, M.D.

13100 W. Lisbon Road  
Suite 700  
Brookfield, WI 53005-2508  
phone: (262) 703-4200  
fax: (262) 781-5180

[www.lungwi.org](http://www.lungwi.org)

1-800-LUNG-USA  
(1-800-586-4872)

*Improving Life,  
One Breath at a Time*



September 27, 2007

The Honorable Scott Wieckert  
P.O. Box 8953  
Madison, WI 53708

Dear Representative Wieckert:

The American Lung Association of Wisconsin is pleased to support your efforts towards passing the Revised Uniform Anatomical Gift Act (UAGA) in Wisconsin to replace earlier versions.

We believe revisions to the act address serious concerns in the area of organ transplant and that a consistent policy, applied across all states, will greatly enhance the donation process. Primarily we expect that the revisions will reduce cost and delays and lead to a greater number of critically ill patients receiving organs, and thus, saving more lives.

Numerous people with lung diseases such as lung cancer and COPD can benefit from organ transplants, increasing their life expectancy and quality of life. We urge the legislature to pass the UAGA.

Thank you for your consideration on this live-saving piece of legislation.

Sincerely,

A handwritten signature in cursive script that reads "Dona Wininsky".

Dona Wininsky  
Director of Public Policy and Communications

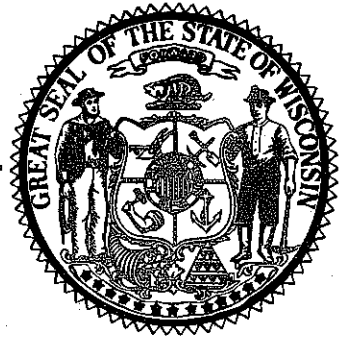
**TO: REPRESENTATIVE STEVE WIECKERT**

**FROM: DR. TONY D'ALESSANDRO**

**DATE: SEPTEMBER 19, 2007**

**Please be informed of our strong support of the Uniform Anatomical  
Gift legislation as you have had drafted. Thank you.**

FRED A. RISSE  
President  
Wisconsin State Senate



November 20, 2007

Representative Leah Vukmir, Chair  
Assembly Committee on Health and Healthcare Reform  
107 West, State Capitol  
Madison, WI 53702

Dear Representative Vukmir,

Thank you for holding a hearing on Assembly Bill 570. The purpose of this bipartisan bill is to implement the Revised Uniform Anatomical Gift Act of 2006 in Wisconsin.

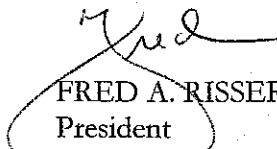
The Revised Act was promulgated by the National Conference of Commissioners on Uniform State Laws and is designed to encourage the making of anatomical gifts, to honor and respect an individual's choice to make or not to make an anatomical gift, and to strengthen language barring others from overriding a donor's decision to make an anatomical gift.

The Act enhances the current anatomical gift system by facilitating a donation from a deceased individual who made no lifetime choice by adding to the priority list of persons (spouse, adult children, etc.) who may make an anatomical gift of the deceased individual by including the decedent's power of attorney or healthcare agent and adult grandchildren. The Act further encourages and establishes standards for donor registries and recognizes anatomical gifts made under the laws of other jurisdictions.

Organ donation has been called "the ultimate act of human kindness" and there are many tens of thousands of individuals currently waiting for lifesaving transplants. I appreciate your willingness to schedule this measure for a public hearing and I encourage the committee to look favorably upon this important legislation.

Thank you for your consideration of this measure today.

Most sincerely,

  
FRED A. RISSE  
President  
Wisconsin State Senate

FAR:tet  
Cc: Assembly Committee on Health and Healthcare Reform

P.O. Box 7882, Madison, WI 53707-7882 • (608) 266-1627 • E-Mail: Sen.Risser@legis.wi.gov • Fax: (608) 266-1629

Printed on Recycled Paper

*ASSEMBLY*  
**PUBLIC HEARING**  
**COMMITTEE ON HEALTH AND HEALTHCARE REFORM**  
Tuesday, November 20, 2007  
10:00 a.m., 417 North (GAR Hall), State Capitol  
SB 310 & AB 570, ANATOMICAL GIFTS

**TESTIMONY IN SUPPORT OF AB 570**

Sara O'Loughlin  
Administrative Director, UW Transplant

On behalf of the University of Wisconsin Organ Procurement Organization and Transplant Program, I am testifying today in support of this bill. We are supportive of this bill for the following reasons:

- Current law not changed since 1987;
- Natl. Conf. of Commissioners on Uniform State Laws (NCCUSL) recommended in 2006 the Uniform Anatomical Gift Act (UAGA)
- 20 states have already enacted changes; it is pending in 2 states, another 22 states have introduced this bill or plan to in 2008
- Increase organ donation

This Bill will increase organ donation by:

- Making first person consent legally binding (i.e. an individual's anatomical gift to take place at death) is substantially strengthened to bar others from amending or revoking a gift or a refusal made by the donor.
- Absent first person consent, gifts by family and agents are facilitated by expanding those that can act to include a health care agent, grandchildren and persons exhibiting special care. Also, by allowing a majority of a class to decide, eliminating the need to obtain consent from individuals who are not "reasonably available" and clarifying the manner by which consent may be obtained.



- Specifically authorizes gifts on donor registries and state-issued ID cards or licenses.
- Puts the framework in place for the establishment of a Wisconsin Donor Registry.
- Remedies for intentional acts in violation of the Act are provided while retaining immunity for good faith acts under the Act.
- Harmonizes the UAGA with current federal law, current technology, current medical practice and Advance Medical Directives. The University of Wisconsin Organ Procurement Organization ("UW OPO") has a service area that is mandated by the federal government that includes the states of Wisconsin, Illinois, and Michigan. Thus, having a Uniform Anatomical Gift Act in all states in which the UW OPO provides services will allow consistency in the organ donation process.

The 2006 UAGA does not address the working relationship between coroners and/or medical examiners and the donation, recovery and/or transplantation agencies, as all parties came together two years ago and together enacted legislation which addressed all of the issues regarding jurisdiction in cases where coordination between the parties was needed.

In the handout provided to you, there is a list of the current Wisconsin Members of the NCCUSI and also a listing of the states that have enacted the UAGA already, or that are in the process of doing so, for your information.

Because the passage of this bill will expand the opportunities for organ donation and further support families and agents who choose to provide the gift of life, we respectfully ask for your approval of this bill.

-----

## CURRENT WISCONSIN MEMBERS OF THE NCCUSL

Anderson, Terry  
Bradley, Ann W.  
Bugge, Lawrence J.  
Callow, William G.  
Champagne, Richard A.  
Cullen, David  
Dykman, Peter J.

Gundrum, Mark D.  
Haas, Shaun P.  
Huelsman, Joanne B.  
Kelly, Walter  
Munson, Bruce  
Prestegard, Orlan L.  
Risser, Fred

### States where the 2006 UAGA has already been enacted:

Arizona	Nevada
Arkansas	New Mexico
California	North Dakota
Colorado	North Carolina
Idaho	Oregon
Indiana	Rhode Island
Iowa	South Dakota
Kansas	Tennessee
Minnesota	Utah
Montana	Virginia

### States where the 2006 UAGA is pending for passage in 2007:

Michigan	District of Columbia
----------	----------------------

### States that have introduced the UAGA or plan to in 2008:

Alabama	Nebraska
Alaska	New Hampshire
Connecticut	New Jersey
Delaware	New York
Georgia	Ohio
Hawaii	Oklahoma
Kentucky	Texas
Louisiana	US Virgin Islands
Maine	Washington
Maryland	West Virginia
Mississippi	Wisconsin
Missouri	

# Life

WISCONSINRIGHTTOLIFE

November 16, 2007

**TO:** Members of the Assembly Committee on Health and Healthcare Reform

**FROM:** Susan Armacost, Legislative Director  
Mary Klaver, Legislative Legal Counsel

**RE:** Wisconsin Right to Life urges your support of Amendment 1 to  
AB 570

Wisconsin Right to Life urges your support of Amendment 1 to AB 570, legislation that deals with anatomical gifts. We are very appreciative to Rep. Steve Wieckert for drafting this amendment.

Under current law, the definition of "anatomical gift" means a donation of all or part of a human body to take effect upon or after death of the donor, as determined in accordance with s. 146.71. AB 570 and SB 310 would change the definition of "anatomical gift" and remove the reference to s. 146.71, the determination of death statute.

**Wisconsin Right to Life strongly objects to the removal of the reference to s. 146.71 which clarifies how the determination of death is made. We urge you to adopt Rep. Wieckert's amendment that would amend the definition of "anatomical gift" in AB 570 as follows:**

157.06 (2) (b) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death, as determined in accordance with s. 146.71, for the purpose of transplantation, therapy, research, or education.

**Wisconsin Right to Life will remain neutral on AB 570 and its Senate companion version, SB 310, if the definition of "anatomical gift" is amended to add "as determined in accordance with s. 146.71."**

**Otherwise, we would oppose this legislation because it would not clearly protect individuals who are close to death, but not yet determined to be dead in accordance with the standards in s. 146.71.**

Wisconsin Right to Life urges you to adopt Amendment 1 to AB 570 which adds the reference to s. 146.71 to the definition of "anatomical gift."

Thank you.